

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

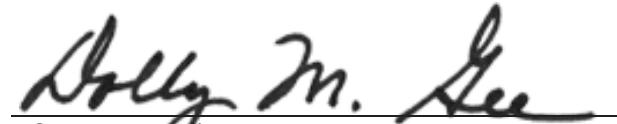
JOHN ORLANDO MITCHELL, ) Case No. EDCV 13-1807-DMG (JPR)  
)  
Petitioner, )  
) ORDER ACCEPTING FINDINGS AND  
vs. ) RECOMMENDATIONS OF U.S.  
) MAGISTRATE JUDGE  
HEIDI M. LACKNER, Warden, )  
)  
Respondent. )  
)

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition, records on file, and Report and Recommendation of the U.S. Magistrate Judge. On June 26, 2014, Petitioner filed objections to the R&R, in which he simply repeats arguments from the Petition for the most part. One of his assertions, however, requires a response. As the Magistrate Judge noted (R&R at 33-34), the trial judge did not foreclose Petitioner and his counsel from asking questions concerning the fact that his 2005 drug-related conviction had allegedly been plea-bargained down to simple possession from possession for sales because the police were able to determine that the large sum of money found in Petitioner's possession at the time actually belonged to someone else; rather, the trial court simply held that Petitioner must

1 first lay a foundation for such questioning. Petitioner was  
2 never able to produce a witness to demonstrate that the charges  
3 relating to the earlier conviction were reduced on that basis.  
4 (See generally Lodged Doc. 2, 2 Rep.'s Tr. at 574-78  
5 (Petitioner's counsel stated at end of trial that she had been  
6 unable to locate such a witness and the prosecution indicated  
7 that it had witness who would testify that Petitioner sold him  
8 drugs that day).) Thus, the California Court of Appeal was not  
9 objectively unreasonable in rejecting Petitioner's claim  
10 concerning his plea agreement for one of his prior convictions.

11 The Court therefore accepts the findings and recommendations  
12 of the Magistrate Judge. IT IS ORDERED that the Petition is  
13 denied without leave to amend and Judgment be entered dismissing  
14 this action with prejudice.

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16 DATED: October 31, 2014  
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DOLLY M. GEE  
UNITED STATES DISTRICT JUDGE